

**REMARKS/ARGUMENTS**

The Office Action dated March 27, 2007 and the references cited therein have been carefully considered. In the Office Action, Claims 12 and 24 have been deemed allowable. The remaining Claims 1-3, 6, 9-11, 13, 14 and 17-23, however, have been rejected as being unpatentable over U.S. Patent No. 3,862,502 to Young in view of U.S. Patent No. 3,297,980 to Haslett and Claims 5, 14 and 15 have been rejected as being unpatentable over the Young patent and the Haslett patent and further in view of U.S. Patent No. 4,563,830 to Cain.

In response to the Office Action, Applicant has amended Claims 10, 12, 18, 19, 21, 22 and 24 which, when considered with the remarks set forth below, are deemed to place the case with Claims 1-3, 5-6, 9-15 and 17-24 in condition for allowance.

**Allowable Claims 12 and 24**

Applicant has rewritten allowable Claims 12 and 24 in independent form, including all of the limitations of the base claim and any intervening claims. Accordingly, it is believed that amended Claims 12 and 24 are now in condition for allowance.

**Independent Claims 1, 9, 17 and 20**

Applicant respectfully traverses the rejection of independent Claims 1, 9, 17 and 20. It is first respectfully submitted that the references cited by the Examiner relate to very different technical fields. In particular, U.S. Patent No. 3,297,980 to Haslett discloses a device for fishing for fish in open sea, using echo sounding equipment, whereas U.S. Patent No. 3,862,502 to Young describes a harvester for collecting clams from on or in a water bottom. As known by one skilled in the art, fishing in open water is performed by using lightweight nets that are pulled through the water, whereas harvesting animals from on or in the aquatic bottom needs very sturdy, heavy duty slides which can slide on top of and over the sea bed. Thus, harvesting animals from on or in the sea bed is a completely different operation than fishing in open water.

Harvesting animals from the sea bottom has its own specific problems that are remote and distinct from the problems occurring in fishing in open water. For this reason, one skilled in the art seeking to further improve sea bed harvesting methods would not be motivated to look to a patent, such as the Haslett patent, directed to open water fishing. Accordingly, it is respectfully submitted that such combination is based on improper hindsight afforded by the present invention.

In any event, it is further noted that any unlikely combination of the Young and Haslett references still fails to disclose the following features defined in Claims 1, 9, 17 and 20.

- 1) Neither Young nor Haslett discloses at least one tine.
- 2) Since no tines are disclosed, neither Young nor Haslett discloses tines provided with fluid outlets.
- 3) Neither Young nor in Haslett discloses operating means for moving the (at least one) tine.
- 4) Neither Young nor Haslett discloses detecting means on the collecting device.
- 5) Neither Young nor Haslett discloses detecting means in front of the (at least one) tine.
- 6) Neither Young nor Haslett discloses detecting means with which the presence of animals in or on the bottom is detected.
- 7) Neither Young nor Haslett discloses operating means that are activated on the basis of a signal. The signal in Haslett is only displayed on a display device, no operating means are disclosed that are activated by the signal. The method needs human intervention by a person looking at the screen, making a decision on the basis of his visual perception and only then activates or deactivates the positioning of the fishing nets.
- 8) Neither Young nor Haslett discloses an operating signal of the detecting means. In contrast, the disclosed detecting device merely produces a signal that is displayed. It is not disclosed that there is an operating signal of any kind.

9) Neither Young nor Haslett discloses a tine that only moves into the bottom when the detecting means in front of the respective tine detect the presence of animals in or on the bottom.

10) Neither Young nor Haslett discloses a tine disclosed that is moved back from the bottom when no more animals are detected in front of the tine.

In general, it is respectfully submitted that none of the cited prior art references, taken alone or combined, discloses a tine, as defined in independent Claims 1, 9, 17 and 20. Specifically, the Young patent discloses only nozzles (25), which are integral right angle extensions of supply pipes (26). These nozzles are not tines. The dictionary definition of a tine is generally "a slender, projecting point" (Webster's New World Dictionary and Thesaurus -1996). The nozzles and the supply lines disclosed in the Young patent are by no means slender, let alone pointed. Therefore such nozzles cannot be considered tines.

Nevertheless, as set forth above, there are numerous other features of the independent claims that are not disclosed in the cited references. Accordingly, for all of the foregoing reasons, it is respectfully submitted that independent Claims 1, 9, 17 and 20, and the claims that depend therefrom patentably distinguish over the prior art.

#### Dependent Claims 2 and 23

Applicant further submits that dependent Claims 2 and 23 include additional features not found in the prior art. In particular, none of the cited references, taken alone or combined, discloses the step of selectively applying a fluid under pressure from one of a plurality of tines extending below the bottom surface of the body of water upon detection of the presence of an animal in front of the tine, wherein each tine is independently activatable.

In the Office Action, the Examiner states that merely describing the tines as independently activatable does not place any limitation on the device since it does not describe any movement. Applicant respectfully disagrees. Specifically, Claims 2 and 23

clearly define an individual tine activated by a detecting means to selectively force fluid into the sea bottom. Such language clearly places a patentable limitation on the device.

In stark contrast, the tines of the Young patent and the Cain patent remain fixed relative to each other and can only be moved or activated together as a unit. (The Haslett patent does not disclose the use of tines in any manner.) More specifically, fluid flows from all of the supply pipes of the Young patent simultaneously.

There is absolutely no disclosure in the Young patent of selectively forcing fluid through an individual pipe, independent of the other pipes, in response to an animal being detected in front of the respective individual pipe, as defined in Claims 2 and 23.

Accordingly, it is submitted that dependent Claims 2 and 23 patentably distinguish over the prior art.

Amended Dependent Claims 10, 18, 19, 21 and 22

Applicant has further amended dependent Claims 10, 18, 19, 21 and 22 to make clear that the tines of the collection device move with respect to the underside of the device itself, as opposed to a plane defined by the underside. It is respectfully submitted that this clarification renders Claims 10, 18, 19, 21 and 22 patentable over the prior art.

Prior to the present amendment, Claims 10, 18, 19, 21 and 22 included the limitation that the tine was extendable below and retractable above "a plane defined by the underside" of the collection device. In the Office Action, the Examiner states that the plane defined by the underside of the support means is the sea bottom and this plane does not change, despite the support means moving off the sea bottom.

In response, Applicant has deleted the phrase "a plane defined by the underside" from Claims 10, 18, 19, 21 and 22. As a result, the claims now define a tine which is extendable below and retractable above the collection device itself. It is respectfully submitted that none of the prior art references, taken alone or combined, discloses tines that are extendable and retractable with respect to the underside of a collection device, based on the presence or

absence of animals in front of the collection device, as defined in amended Claims 10, 18, 19, 21 and 22.

Instead, the tines of the Young patent and the Cain patent are all fixed relative to the support frame on which they are provided. As such, the tines can not be extended or retracted with respect to the support frame. The tines of the Young patent are inserted into the sea floor when the support frame comes to rest on the sea floor, and can only be removed from the sea floor by lifting the entire support frame off the sea floor.

In direct contrast, the present claimed invention allows for selective insertion and removal of the tines while the support frame remains on the sea bottom. There is absolutely no teaching or suggestion of this feature in any of the cited references. Accordingly, it is submitted that amended Claims 10, 18, 19, 21 and 22 patentably distinguish over the prior art.

### Conclusion

In view of the foregoing amendment and remarks, favorable consideration and allowance of the application with Claims 1-3, 5-6, 9-15 and 17-24 are respectfully solicited. If the Examiner believes that a telephone interview would assist in moving the application toward allowance, he is respectfully invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,



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